

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
POWER COMPANY FOR APPROVAL OF A)	
CERTIFICATE OF PUBLIC CONVENIENCE)	
AND NECESSITY FOR ENVIRONMENTAL)	CASE NO.
PROJECT CONSTRUCTION AT THE)	2021-00004
MITCHELL GENERATING STATION, AN)	
AMENDED ENVIRONMENTAL COMPLIANCE)	
PLAN, AND REVISED ENVIRONMENTAL)	
SURCHARGE TARIFF SHEETS)	

ORDER

On May 5, 2021, Kentucky Power Company (Kentucky Power) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for five years for designated material in Kentucky Power’s response to Sierra Club’s Second Request for Information (Sierra Club’s Second Request), Item 12, Attachment 1. The designated material contains estimates of forecasted capacity factors under multiple future scenarios for Kentucky Power’s Mitchell Generating Stations.

In support of its motion, Kentucky Power asserted that the designated material contains information would be valuable to potential buyers, lessors, and lenders of American Electric Power’s (AEP) generating assets, and to potential developers of similar generating assets. Kentucky Power argued that public disclosure of the designated material could be used by counterparties in future transactions and by competitors to gain

a commercial advantage over Kentucky Power, which would result in financial harm to Kentucky Power and its customers.

On May 12, 2021, Sierra Club filed direct testimony of Rachel Wilson (Wilson Testimony) that included the designated material that is the subject of this Order. Sierra Club filed a notice that the filing included information that Kentucky Power designated as confidential, and a copy with the designated material redacted and a separate document with the designated material marked in accordance with 807 KAR 5:001, Section 13.

Having considered the motion and the material at issue, the Commission finds that the designated material contained in Kentucky Power's response to Sierra Club's Second Request, Item 12, Attachment 1 is generally recognized as confidential or proprietary; it therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

The Commission further finds that Sierra Club complied with the regulatory requirements for filing designated material that is subject to a pending motion for confidential treatment, and therefore the designated material in the Wilson Testimony is exempt from public disclosure under the same terms as the designated material contained in Kentucky Power's response to Sierra Club's Second Request, Item 12, Attachment 1. Because the designated material is within the control of Kentucky Power and not Sierra Club, the Commission also finds that the provisions of ordering paragraphs 4, 5, and 6 set forth below should apply to Kentucky Power only.

IT IS THEREFORE ORDERED that:

1. Kentucky Power's May 5, 2021 motion for confidential treatment for the designated material contained in its response to Sierra Club's Second Request, Item 12, Attachment 1 is granted.

2. The designated material granted confidential treatment by this Order contained in Kentucky Power's response to Sierra Club Second Request and in the Wilson Testimony shall not be placed in the public record or made available for public inspection for five years or until further Order of this Commission.

3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).

4. Kentucky Power shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.

5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, Kentucky Power shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If Kentucky Power is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

6. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no

longer qualifies for confidential treatment in order to allow Kentucky Power to seek a remedy afforded by law.

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By the Commission



ATTEST:



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